

TITLE 14. Fish and Game Commission

Notice of Proposed Changes in Regulations

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 7071 and 8587.1 of the Fish and Game Code and to implement, interpret or make specific sections 7071, 8585.5 and 8587.1 of said Code, proposes to add sections 150.02 and 150.04, Title 14, California Code of Regulations, relating to control dates for other species of Nearshore Fish.

Informative Digest/Policy Statement Overview

Regulations are needed to establish control dates that will serve to notify commercial fishermen that if they have not participated in one segment of the nearshore fishery prior to this date harvesting 9 species of nearshore fish stocks, they may not qualify for participation in a fishery for these species under a future restricted access program. These species include black rockfish, blue rockfish, brown rockfish, calico rockfish, copper rockfish, monkeyface eel, olive rockfish, quillback rockfish and treefish.

Additional regulations would specify the need to demonstrate use of a particular gear type prior to the control date to take these species, so that they could qualify for future participation in that segment of the nearshore fishery under a future gear endorsement program.

These 9 species are defined as nearshore fish stocks in current regulations, yet their take does not require a Nearshore Fishery Permit. Take of these species is not governed by the existing control dates already established for nearshore fishery restricted access and for a nearshore fishery gear endorsement program.

Three date options for these regulations are provided for the Commission's consideration: 1) a control date of March 8, 2002 which is the date of the Commission meeting at which the notice publication may be authorized, 2) a control date of December 31, 2001, which was the last fishing date before the more restrictive shelf and slope rockfish regulations went into effect, and 3) control dates of December 31, 1999 for restricted access and October 20, 2000 for a gear endorsement program, which mirror the current control dates established in Section 150 and 150.03, Title 14, CCR, for Nearshore Fishery Permits and Nearshore Fishery Gear Endorsement Programs.

Adoption of control dates now will serve to notice new participants in this component of the nearshore fishery that they may not be eligible for future participation, and that future investments in equipment or gear to participate in this fishery may not be considered. Moreover, the dates establish a point in time after which persons just beginning to participate in the fishery, or that begin using a new type of gear in the fishery, must meet future criteria to be established by the Commission in order to maintain continued access to these commercial nearshore resources.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the City Council Chambers, 333 W. Ocean Blvd., Long Beach, CA, Friday, April 5, 2002, at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the City Council Chambers, 2600 Fresno Street, 2nd floor, Fresno, CA, on Thursday, May 9, 2002, at 9:00 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments may be submitted on or before Friday, May 9, 2002 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@dfg.ca.gov, but must be received no later than Thursday, May 9, 2002, at the hearing in Fresno. E-mail comments must include the true name and mailing address of the commentor.

The regulations as proposed in ~~strikeout~~-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John M. Duffy, Assistant Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct inquiries to John M. Duffy or Tracy L. Reed at the preceding phone number. Don Schultze, Department of Fish and Game, 227-5670 has been designated to respond to questions on the substance of the proposed regulations. Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the above address. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.dfg.ca.gov>.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.]

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from agency program staff.

Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, as it serves only to put individuals on notice that future regulations may be developed.

- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.

- (c) Cost Impacts on a Representative Private Person or Business:

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- (d) Costs or Savings to State agencies or Costs/Savings in Federal funding to the State: None.

- (e) Nondiscretionary Costs/Savings to Local Agencies: None.

- (f) Programs Mandated on Local Agencies or School Districts: None.

- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.

- (h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business.

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

Date: March 12, 2002

John M. Duffy
Assistant Executive Director